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*Attorneys for Plaintiff,
Spigen Korea Co., LTD.*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SPIGEN KOREA CO., LTD., a
Republic of Korea corporation,

Plaintiff,

v.

ISPEAK CO., LTD., a Republic of
Korea corporation; VERUS U.S.A.,
LLC, a California limited liability
company; DOES 1 through 10, inclusive,

Defendants.

VERUS U.S.A., LLC, a California
limited liability company,

Counter-Plaintiff,

v.

SPIGEN KOREA CO., LTD., a
Republic of Korea corporation,

Counter-Defendant.

Case No.: 8:15-cv-01050 DOC (DFMx)
Assigned to Hon. David O. Carter

**DECLARATION OF DAE-YOUNG
KIM IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

Hearing:

Date: June 13, 2016

Time: 8:30 a.m.

Dept: 9D

Location: 411 West Fourth Street,
Santa Ana, CA 92701

*[The following documents filed
concurrently: Memorandum of Points
and Authorities; Separate Statement of
Facts Not in Dispute; Declaration of
Matthew Stein; Declaration of Heedong
Chae; [Proposed] Order]*

1
2 I, Dae-Young Kim, declare as follows:

3 1. I am the Chief Executive Officer of Plaintiff and Counter-
4 Defendant Spigen Korea Co., LTD (hereinafter, "Plaintiff" or "Spigen") in
5 this action and the inventor of the patent in suit, U.S. Patent No. 9,049,283
6 (the "'283 Patent"). I have personal knowledge of the facts set forth herein,
7 and if called upon, I could and would testify competently to those facts.

8 2. On or about July 3, 2014, the patentee of Korean Utility Model
9 No. 20-0472435 ("KUM '435") sent a Warning Letter (the "Warning
10 Letter") to Spigen alleging that Spigen's product practicing the '283 Patent
11 ("Spigen's accused product") infringed on KUM '435.

12 3. Attached as Exhibit X is a true and correct copy of the Warning
13 Letter with a date stamp of July 3, 2014.

14 4. I have become aware of KUM '435. I reviewed and analyzed
15 KUM '435 and compared it to Spigen's accused product.

16 5. When I reviewed the KUM '435, I saw that the design was very
17 different from Spigen's accused product or the '283 Patent.

18 6. In the '283 Patent, the hard protective frame removably mounts
19 over the soft protective case while in the KUM '435, the soft protective case
20 is overmolded (fixedly attached) to a hard plastic plate structure.

21 7. Additionally, the credit card storage compartment was created
22 differently in the KUM '435 than the '283 Patent.

23 8. The credit card compartment on the KUM '435 is created on a
24 recess in the hard flat plate, while in the '283 Patent, the credit card storage
25 compartment is formed by the raised wall from the back panel of the soft
26 protective case.

27 9. These differences lead to different manufacturing processes in
28 that KUM '435 is double shot injection molded, while the '283 Patent
requires manufacture of two pieces that are removably assembled together.

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3 10. Additionally, there are numerous designs that were required in
4 the '283 Patent in order to ensure that the soft protective case and the hard
5 protective frame were compatible, secure, and provided sufficient coupling.

6 11. For these reasons, I concluded that the Warning Letter by the
7 patentee of KUM '435 is frivolous and baseless because the case of KUM
8 '435 is significantly and materially different from Plaintiff's product and
9 Plaintiff's product does not infringe on KUM '435. I also concluded that
10 KUM '435 is not materially relevant to the patentability of the '283 Patent.

11 12. On or about July 6, 2014, based on my analysis and conclusion,
12 I emailed to the representative of the patentee of KUM '435, noting material
13 differences between KUM '435 and Spigen's accused case, and pointing
14 non-infringement.

15 13. Attached as Exhibit Y is a true and correct copy of the email
16 reply to the Warning Letter sent on July 6, 2014.

17 14. Even if the patentee of KUM '435 could not prevail, a legal
18 proceeding began in 2015 between Spigen and the patentee of KUM '435
19 regarding KUM '435. After completion of the legal proceeding, KUM '435
20 was finally determined invalid.

21 15. In about late May of 2015, I forwarded KUM '435 to Plaintiff's
22 counsel, Heedong Chae, for further review.

23 16. Shortly thereafter, Heedong Chae notified me that KUM '435
24 discloses an invention significantly different from Spigen's accused product
25 or the '283 Patent and that KUM '435 is not material to the patentability of
26 the '283 Patent.

27 17. During the prosecution of the '283 Patent Application with the
28 U.S. Patent and Trademark Office, I was not aware of the existence of the
Incipio Stowaway Case or many other alleged prior art references
Defendants presented.

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2 I declare under penalty of perjury according to the laws of the State of
3 California and the United States of America, that the foregoing is true and
4 correct.
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6 Executed this Monday, May 16, 2016 in Irvine, California
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8 By: 
9 DAE-YOUNG KIM
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